

**United States Department of Labor
Employees' Compensation Appeals Board**

B.Z., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Seattle, WA, Employer**

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**Docket No. 19-0644
Issued: September 11, 2019**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On January 28, 2019 appellant filed a timely appeal from a December 12, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a right foot condition causally related to the accepted October 12, 2018 employment incident.

FACTUAL HISTORY

On October 18, 2018 appellant, then a 37-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on October 12, 2018 he developed an infection in his right foot when walking on difficult terrain while in the performance of duty. On the reverse side of the

¹ 5 U.S.C. § 8101 *et seq.*

claim form, the employing establishment checked a box marked “no” when asked whether he was injured in the performance of duty, and noted that his preexisting diabetes was the cause of his alleged condition.

In an attending physician’s report (Form CA-16) dated October 19, 2018, bearing an illegible signature, appellant was diagnosed with diabetic foot infection. The report indicated that it was uncertain whether the diagnosis was a result of his walking activity on October 12, 2018. It was noted that appellant had undergone surgical procedures on his right foot on October 15 and 17, 2018. It further related that he was able to resume light-duty work.

An illegibly signed duty status report (Form CA-17) dated October 22, 2018, noted a diagnosis of diabetic foot infection. It also indicated that appellant was unable to perform regular employment duties.

In a development letter dated November 2, 2018, OWCP advised appellant of the deficiencies of his claim, and requested additional factual and medical evidence, including a well-rationalized medical report from a physician which provided an opinion as to how the alleged incident caused or aggravated a diagnosed condition. A questionnaire was also provided for appellant’s completion. OWCP afforded him 30 days to submit the requested evidence.

In a letter dated November 1, 2018, the employing establishment challenged appellant’s claim indicating that he had preexisting diabetes mellitus, which was the cause of his condition.

In a narrative statement dated November 13, 2018, appellant related that on October 12, 2018 he was assigned to work for four hours as a letter carrier and six hours as a collections driver. However, he was in pain while on his route and could not complete his mail route in a timely manner. On the next day, appellant feared that he would lose his job if he did not perform his duties and worked in pain throughout the day. He noted that on October 14, 2018 he was admitted to the hospital where he remained hospitalized until November 1, 2018 due to his right foot condition.

By decision dated December 12, 2018, OWCP denied appellant’s claim finding that the evidence of record was insufficient to establish causal relationship between his right foot condition and the accepted October 12, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related

² *Id.*

³ *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

to the employment injury.⁴ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁶ The second component is whether the employment incident caused a personal injury.⁷

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the accepted employment incident. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his right foot condition was causally related to the accepted October 12, 2018 employment incident.

In support of his claim, appellant submitted illegibly signed CA-16 forms and CA-17 form. The Board notes that reports that bear illegible signatures cannot be considered probative medical evidence because they lack proper identification that the author is a physician.¹⁰ Nonetheless, even if these reports were signed by a physician, they noted diagnoses of a diabetic foot infection, but offered no opinion as to the cause of appellant's condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no

⁴ *D.B., id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *D.B., id.*; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *M.H., id.*; *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

⁹ *C.W.*, Docket No. 19-0231 (issued July 15, 2019).

¹⁰ *J.P.*, Docket No. 19-0197 (issued June 21, 2019); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see R.M.*, 59 ECAB 690 (2008); *D.D.*, 57 ECAB 734 (2006); *Richard J. Charot*, 43 ECAB 357 (1991).

probative value on the issue of causal relationship.¹¹ Thus, these reports are insufficient to establish appellant's claim.

Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹²

OWCP advised appellant by development letter dated November 2, 2018 regarding the type of medical evidence necessary to establish his claim. As appellant has not submitted rationalized medical evidence establishing causal relationship between his diagnosed foot condition and the accepted October 12, 2018 employment incident, the Board finds that he has not met his burden of proof.¹³

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his right foot condition was causally related to the accepted October 12, 2018 employment incident.¹⁴

¹¹ *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *C.C.*, Docket No. 17-1841 (issued December 6, 2018); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *Supra* note 9.

¹³ *Id.*

¹⁴ The record only contains the second page of Form CA-16, but not the first page which would evince whether the form was formally executed by a representative of the employing establishment. When there is evidence that the employing establishment properly executes a CA-16 form which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the CA-16 form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination and treatment regardless of the action taken on the claim. *C.W.*, Docket No. 17-1293 (issued February 12, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a CA-16 form is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c).

ORDER

IT IS HEREBY ORDERED THAT the December 12, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 11, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board